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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/619,357	07/19/2000	Alphonse Cassone	4139P2201	2169

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WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

EXAMINER

DEMILLE, DANTON D

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 08/01/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Applicati n N .

09/619,357

Applicant(s)

CASSONE, ALPHONSE

Examiner

Danton DeMille

Art Unit

3764

--The MAILING DATE of this communication appears on the cover sheet with th corresp ndence address --

THE REPLY FILED 17 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

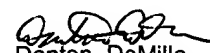
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Danton DeMille
Primary Examiner
Art Unit: 3764

Continuation of 5. does NOT place the application in condition for allowance because: While Balamuth teaches that the person receiving the treatment is submerged in the water inherently the person before getting into the tub would be subjected to the acoustic waves produced by the submerged transducer. Moreover, other people within the same room would also be subjected to the same acoustic waves. Inherently the method for treating tendonitis would be performed by persons outside of the tub of Balamuth. Regarding the arguments that the transducer is contained between the walls of the tub and not located in the water that this the purpose of the teaching of Nedwell. Nedwell teaches both embodiments of the sound transducer being within the walls of the tub or immersed within the water. Clearly one of ordinary skill knows that one can place the transducer in the wall or separately located within the water. Regarding the arguments that Balamuth teaches uses ultrasonic frequencies and not the claimed 400 to 800 Hz, Balamuth teaches subjecting the person to sonic waves such as Mozart. Clearly Mozart music would include frequencies in the claimed 400 to 800 Hz. Regarding Nedwell, Nedwell is merely cited for the teaching of the location of the transducers within the tub. The specific intended use frequency is dependent on the desired results well within the realm of the artisan of ordinary skill.